

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

LEAGUE OF WOMEN VOTERS OF
MISSOURI, ST. LOUIS A. PHILIP
RANDOLPH INSTITUTE, and
GREATER KANSAS CITY A. PHILIP
RANDOLPH INSTITUTE,

Plaintiffs,

v.

JOHN R. ASHCROFT,
in his official capacity as the Missouri
Secretary of State, and

JOEL WALTERS,
in his official capacity as the Director of
the Missouri Department of Revenue,

Defendants.

No. 2:18-cv-04073-BCW

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs League of Women Voters of Missouri (the "League"), the St. Louis A. Philip Randolph Institute, and the Greater Kansas City A. Philip Randolph Institute, respectfully move this Court, under Fed. R. Civ. P. 65(a), for a preliminary injunction to prevent Missouri voters, including League members, from being disenfranchised in Missouri's August 2018 primary and November 2018 general election as a direct result of Defendants' failure to offer the voter registration services required by Section 5 of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20504.

All factors considered when determining whether a preliminary injunction should issue favor Plaintiffs. Plaintiffs are likely to succeed on the merits of their claim because Defendants fail to provide any voter registration services to Missouri residents who have used the

Department of Revenue's ("DOR") online or mail change-of-address systems to change the address associated with their driver's license or state identification card despite Section 5(d) of the NVRA explicitly requiring them to do so. *See id.* § 20504(d). Failure to respond to this problem in advance of this year's elections will irreparably harm Missouri voters, including League members, and Plaintiff organizations. Without preliminary relief, many of the Missourians who used DOR's online and mail change-of-address systems will not be properly registered and will thus be unable to cast a regular ballot. Missouri voters who moved between counties could be wholly disenfranchised. Further, Plaintiffs will be unable to fulfill important organizational priorities because they are diverting their limited resources to address the registration gap left by Defendants' NVRA violations. Moreover, the public interest strongly favors ensuring states comply with federal law and that as many qualified voters are able to vote as possible. Any burden the Defendant may experience in complying with Plaintiffs' requested relief is minimal in comparison to the harm of not doing so.

Therefore, to prevent Plaintiffs from having to expend their limited resources mending this registration gap, and to prevent members of the League of Women Voters of Missouri and other State voters from being harmed, Plaintiffs request that this Court issue a preliminary injunction that requires Defendants to:

- a. Devise a process that allows the state to identify and count the provisional ballots of Department of Revenue ("DOR") clients who used the mail or online address update system on or after November 8, 2016, but whose registrations were not updated and who are denied a regular ballot because the voter registration address they have on file does not match the address on file with DOR.
- b. Count the provisional ballots of all voters identified through the process described in (a), regardless of whether the voter moved within their county where they were previously registered or to a new county in the State of Missouri.
- c. Send a directive or other public document to local election officials and other relevant state actors detailing how the process described in (a) will work by July 11, 2018

- d. Place posters at each polling location informing voters of the requirements of 52 U.S.C. § 20504(d) and the provisional ballot process described in (a).
- e. Update DOR's online and mail change-of-address processes to provide the voter registration services required under 52 U.S.C. 20504(d) of the NVRA by September 1, 2018. This requires: (1) updating the language on the online portal and mail form to inform individuals that their voter registration will be automatically updated when they report a change-of-address to DOR, unless they request that their registration not be changed; and (2) establishing a system by which Defendants will share, and election officials will update, voter registration information from these changes of address within the five business days required by Missouri law or the timeframe required by 52 U.S.C. § 20504(e), whichever is shorter. These updates must be conducted regardless of whether a voter moved within an election jurisdiction or between election jurisdictions.
- f. Send a mailing to all individuals who used a DOR mail or online change-of-address form on or after November 8, 2016 and until DOR's mail and online systems are updated, which provides such individuals the opportunity to update their voter registration information. This mailing should include (1) a Missouri voter registration application and (2) information on their polling location, as proposed in Exhibit F to the Suggestions in Support of Plaintiffs' Motion for Preliminary injunction. This mailing can be sent by U.S. mail or email, in instances where the Defendants have a DOR client's email address. All mailings should be completed by September 1, 2018.

In support of this Motion, Plaintiffs submit the attached Suggestions in Support and accompanying exhibits.

Dated: May 18, 2018

Respectfully Submitted,

/s/ Anthony E. Rothert

Anthony E. Rothert, #44827

Jessie Steffan, #64861

ACLU OF MISSOURI FOUNDATION

906 Olive Street, Suite 1130

St. Louis, MO 63101

Telephone: (314) 652-3114

Fax: (314) 652-3112

trothert@aclu-mo.org

jsteffan@aclu-mo.org

Gillian R. Wilcox, #61278

ACLU OF MISSOURI FOUNDATION

406 W. 34th Street, Suite 420
Kansas City, MO 64111
Telephone: (816) 470-9938
gwilcox@aclu-mo.org

Denise D. Lieberman, #47013
Sabrina Khan*
ADVANCEMENT PROJECT
1220 L Street NW, Suite 850
Washington, DC 20005
Telephone: (314) 780-1833
Fax: (202) 728-9557
dlieberman@advancementproject.org
skhan@advancementproject.org

Naila S. Awan*
DĒMOS
80 Broad Street, 4th Floor
New York, NY 10004
Telephone: (212) 485-6065
nawan@demos.org

Allie Boldt* **
Chiraag Bains (MA Bar No. 673627)* **
DĒMOS
740 6th Street NW, 2nd Floor
Washington, DC 20001
Telephone: (202) 864-2746
aboldt@demos.org
CBains@demos.org

Sarah Brannon* **
Davin M. Rosborough* **
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street, NW
Washington, DC 20005
Telephone: (202) 675-2337
sbrannon@aclu.org
drosborough@aclu.org

Joshua B. Picker*
Saad Rizwan*
COVINGTON & BURLING LLP
620 Eighth Avenue
New York, NY 10018

Telephone: (212) 841-1000
Fax: (212) 841-1010
jpicker@cov.com
srizwan@cov.com

Attorneys for Plaintiffs

* Admitted pro hac vice

** *Not admitted in the District of Columbia;
practice limited pursuant to D.C. App. R.
49(c)(3).*

CERTIFICATE OF SERVICE

I certify that on May 18, 2018, I filed the foregoing Plaintiffs' Motion for a Preliminary Injunction with the Clerk of the Court using the CM/ECF system, and a copy was made available to all electronic filing participants.

/s/ Anthony E. Rothert